

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RAMONE L. WRIGHT,

Petitioner,

v.

**FRANKLIN COUNTY MUNICIPAL
COURT,**

Respondent.

Case No. 2:21-cv-4317

Judge MICHAEL H. WATSON

Magistrate Judge Kimberly A. Jolson

ORDER

Petitioner Ramone L. Wright seeks a writ of habeas corpus under 28 U.S.C. § 2254 (ECF No. 1.) Wright seeks expungement of a conviction as part of the judgment of a state court in a criminal action. On September 23, 2021, the undersigned issued a Report and Recommendation recommending that the petition be denied (ECF No. 4.) Yet, in his Objections, Wright states that the state court judgment was included in his criminal history in his federal Presentence Investigation Report, which “falsely inflated” his criminal history score, resulting in a longer federal sentence (ECF No. 5, PageID 36, citing *United States v. Wright*, No. 2:16-cr-59.) Thus, while filed as a petition for writ of habeas corpus under 28 U.S.C. § 2254, the Objections demonstrate that Wright is seeking to vacate or modify his sentence under 28 U.S.C. § 2255.

A review of the docket reveals that Wright has already had a Motion to Vacate adjudicated against him (Order, No. 2:16-cr-59, ECF No. 88) and has a second-or-successive petition pending in the United States Court of Appeals for the Sixth Circuit (Transfer Order, No. 2:16-cr-59, ECF No. 101; *see also* Objections, ECF No. 5, PageID 37.) Because Defendant has previously filed and the Court has decided a prior § 2255 motion, this Court lacks jurisdiction to consider the

motion because it has not been certified by a panel of the Sixth Circuit under 28 U.S.C. § 2255(h). *Burton v. Stewart*, 549 U.S. 147, 152-53 (2007); *Franklin v. Jenkins*, 839 F.3d 465, 473-74 (6th Cir. 2016). When a defendant files a second or successive application under 28 U.S.C. § 2255, this Court must transfer the case to the Sixth Circuit for its consideration of whether the defendant may proceed. *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

Accordingly, the Report and Recommendation (ECF No. 4) is **WITHDRAWN** and the Clerk is **DIRECTED** to transfer the Petition (ECF No. 1) to the Sixth Circuit for consideration under 28 U.S.C. § 2255(h).

IT IS SO ORDERED.

Date: October 7, 2021

s/Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE